

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

Before the court is a "Motion to Compel" filed by plaintiff on August 8, 2016. Plaintiff seeks the following:

In the Second Claim (*To prove the mistreatment and judgment of my sexuality*):

- In regards to Elton Hotain #37637 filing a "False" sexual harassment against me . . . I want access to all the records kept on that incident between the dates of March 25th, 2014 until May 29th, 2014.
- In regards to hanging myself . . . I want access to all the records kept on that incident between the dates of May 12th, 2014 until May 29th, 2014.

In the Third Claim (*To Prove Cruel and Unusual Punishment*):

- In regards to being placed in Observation, following my suicide attempt... I want access to all the records kept on that incident between the dates of May 12th, 2014 until May 22nd, 2014.

In the Sixth Claim (*To prove the mistreatment and judgment of my sexuality*):

- In regards to being found guilty of having Sexual Contact with 5 other inmates, and being one of the "only" two inmates to be placed in Administrative Segregation . . . I want access to all the records kept on that incident between the dates of September 8th, 2014 until August 8th, 2015.

(Docket No. 42) (errors and emphasis in original).

Defendants filed a response to plaintiff's motion on August 15, 2016. They aver that plaintiff's motion is premature. The undersigned agrees.

Attached to plaintiff's motion is a copy of a letter, dated July 11, 2016, in which plaintiff

requested production of the aforementioned documents from defendants. According to defendants, they received plaintiff's request on or about July 13, 2016, and were preparing a response. Rule 34(b)(2)(a) of the Federal Rules of Civil Procedure provides that, upon service of a discovery request, a party has 30 days in which to respond. And under Rule 5(b)(2)(C), the parties are afforded an additional three days for mailing. Thus, it would appear that defendants' response to plaintiff's request was due on or about August 15, 2016. Plaintiff filed his motion approximately 1 week before this deadline expired.

Accordingly, plaintiff's motion (Docket No. 42) is **DENIED** without prejudice.

IT IS SO ORDERED.

Dated this 18th day of August, 2016.

/s/ Charles S. Miller, Jr.

Charles S. Miller, Jr., Magistrate Judge
United States District Court